

MISSOULA

Chapter 9.58

SOCIAL HOST AND RENTAL SPACE GATHERINGS

INVOLVING CONSUMPTION OF ALCOHOL BY MINOR PERSONS

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9.58.010 Purpose, Findings.

A. Consumption of alcoholic beverages by minor persons presents numerous problems for the Missoula community, minor persons, and law enforcement. Specifically:

1. Underage consumption and possession of alcohol are ongoing problems in the Missoula community;
2. Reportedly Montana teens have one of the highest binge drinking (heavy episodic – defined as 5 or more drinks in one sitting) rates in the nation;
3. Provision of alcohol to individuals less than 21 years of age is generally unlawful and generates problems for law enforcement;
4. Law enforcement has expended countless man-hours and countless resources on enforcement of underage drinking laws which has detracted from their ability to tend to violent crime and other necessary law enforcement activities;
5. Parties and gatherings at locations where unlawful alcohol related offenses occur are significant problems for Missoula law enforcement; and
6. Alcohol abuse is also linked to numerous other health and life issues for our youth, including, but certainly not limited to, injuries and death due to vehicle crashes as a result of impaired driving, sexual assault, teenage and pre-teen sexual activity, and pregnancy, sexually

transmitted diseases, physical assault, and academic difficulties.

B. The Missoula City Council finds and declares that the purpose of this ordinance includes:

1. Providing accountability to those persons responsible for unlawful alcohol related conduct at parties and gatherings;
2. Protecting public health, safety, and general welfare;
3. Enforcing laws prohibiting the consumption of alcohol by minor persons; and
4. Pursuant to Mont. Code Ann. §§ 7-1-4123, 7-1-4124, and 7-32-4302, the City of Missoula has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:
 - a. Preserve the peace and order and secure freedom from dangerous and noxious activities;
 - b. Secure and promote the general public health and welfare; and
 - c. Prevent and punish minor persons' intoxication, loud noises, disorderly conduct, and acts or conduct calculated to disturb the public peace or which are offensive to public morals within its limits.

9.58.020 Definitions.

A. "Alcohol" means the same as defined in Mont. Code Ann. § 16-1-106.

B. "Alcoholic Beverage" means the same as defined in Mont. Code Ann. § 16-1-106.

C. "Gathering" means a party or event where a group of three or more persons has assembled or is assembling for a social occasion or social activity.

D. "Knowingly" a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning.

E. "Minor Person" means any person under the age of 18.

F. "Parent" means any person having legal custody of a juvenile, including a natural parent, adoptive parent, stepparent, legal guardian, person to whom a court order has given temporary or permanent legal custody.

G. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, fraternity or sorority or other dwelling unit, hall or meeting room, park, pavilion, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party, gathering, or other social function, and whether

owned, leased, rented, or used with or without permission or compensation.

H. "Purposely"--a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negates the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same meaning.

I. "Social Host" means any person of any age who facilitates, encourages, conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling, or permitting a party, event, or gathering at which consumption of alcohol by minor persons is occurring. The term shall include, but is not limited to the following:

1. Any person or persons who owns, rents, leases, or otherwise controls the premises where an event, a gathering, activity, or party takes place;
2. The person or persons in charge of or responsible for the premises;
3. The person or persons who organized the activity, event, gathering, or party.

The term shall not include a property owner, property manager, lessee or parent who does not knowingly or purposely facilitate or encourage any activity, event, gathering, or party, whether or not the activity, event, gathering, or party was permitted or allowed, that resulted in minor persons unlawfully being in possession of or unlawfully consuming an alcoholic beverage.

9.58.030 Prohibited Acts.

- A. A person violates this chapter when, as a social host for a gathering, that person knowingly or purposely facilitates or encourages minor persons in consuming an alcoholic beverage on a premises within the City and fails to take reasonable steps to prevent the consumption by minor persons. The social host does not have to be present or on the premises at the time the prohibited act occurs. Except as otherwise provided in subsection 9.58.020 (I), absence of the social host from the premises may not be used as a defense.
- B. Nothing in this chapter shall be construed to supersede the prohibitions or exceptions set forth in Mont. Code Ann. § 16-6-305 pertaining to regulating the "age limit for sale or provision of alcoholic beverages – liability of provider."

9.58.040 Penalties

- A. A person convicted of violating this chapter shall be guilty of a misdemeanor and shall be punished as follows:
1. For the first offense, a 100 fine, which may not be suspended, plus court costs;
 2. For the second or subsequent offense, a minimum fine of \$500.
- B. A person under the age of 18 at the time of being charged with a violation of the social host ordinance arising out of any incident occurring while the person was under the age of 18 shall be cited into District Court Youth Court and punished as deemed appropriate by the Youth Court."